

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

Bernard McFadden,	)	Civil Action No. 6:09-2437-RBH-KFM
	)	
Plaintiff,	)	
	)	
vs.	)	<b><u>REPORT OF MAGISTRATE JUDGE</u></b>
	)	
Simon Major, Director Sumter-Lee	)	
Regional Center, in his individual or	)	
personal capacity; and Capt. Ray Lee,	)	
Records Officer and Accountant, in	)	
his individual or personal capacity,	)	
	)	
Defendants.	)	
_____	)	

The plaintiff, proceeding *pro se*, brought this action seeking relief pursuant to Title 42, United States Code, Section 1983. Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), and Local Rule 73.02(B)(2)(d), D.S.C., this magistrate judge is authorized to review all pretrial matters in cases filed under Title 42, United States Code, Section 1983, and submit findings and recommendations to the District Court.

On December 23, 2009, the defendants filed a motion for summary judgment. On December 29, 2009, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the plaintiff was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately. Also on December 23, 2009, the plaintiff filed a motion to compel. The defendants filed their opposition to the motion to compel, and by order filed January 12, 2010, the court denied the motion and reminded the plaintiff that his response to the motion for summary judgment was due on February 1, 2010.

When no response was filed, the court entered another order on April 13, 2010, giving the plaintiff through May 10, 2010, to file his response to the motion summary

judgment. The plaintiff was specifically advised that if he failed to respond, this action would be dismissed for failure to prosecute. The plaintiff did not file a response to the motion for summary judgment, but on April 26, 2010, he filed a motion to stay the proceedings. By order of this court filed May 12, 2010, the motion to stay was denied and the plaintiff was given through June 9, 2010, to file his response to the motion for summary judgment. The plaintiff was again advised that his failure to respond would result in the case being dismissed for failure to prosecute. The plaintiff has elected not to respond.

Based on the foregoing, it appears the plaintiff no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989), *cert. denied*, 493 U.S. 1084 (1990).

s/Kevin F. McDonald  
United States Magistrate Judge

June 15, 2010

Greenville, South Carolina